

**Attorney General's
First Set of Information Requests**

**THE BERKSHIRE GAS COMPANY
D.T.E. 02-81**

Witness: Karen L. Zink
Date: January 22, 2003

AG-1-1 Refer to Ms. Zink's Testimony, pp. 7-8. Please explain why the contract negotiations took more than 5 months to complete (May 3, 2002 through the end of October 2002). Include details of each point subject to negotiation. For each contract term negotiated, provide the original position of each party and the final position to which the parties agreed.

Response: Several factors contributed to the timing of proposal review and contract finalization. First, the analysis of the bid responses took longer than had been anticipated, primarily due to the limited resources available at the Company. Further, once BP Energy was selected as the successful bidder, BP Energy was, in turn, subject to unrelated time constraints within its organization. Despite the time it took to finalize an agreement, the Company and BP Energy were able to enter into an interim agreement which has been in effect since November 1. Operation pursuant to this agreement has been very effective in that there have been no reliability concerns and BP Energy has been very responsive to Berkshire's needs.

Regarding the specifics of negotiations, there were three items in the BP Energy bid that were discussed among the parties for possible revision. The first was related to the scope of citygate service. BP Energy suggested that all citygate service should be incorporated within the Energy East Alliance. Berkshire did not want this to be a provision of the agreement and required that the agreements remain independent. BP ultimately agreed to this point. The second issue related to the reservation charge. Berkshire inquired whether the reservation charge for the months of November through March could be reduced. BP Energy was reluctant to reduce the price because the reservation charge was the same charge as had been included in the alliance agreement, and, according to BP Energy, that price had been determined based on the fact that the market was "bullish." Berkshire ultimately agreed to retaining the reservation charge reflected in the BP Energy bid. Finally, Berkshire required that the final agreement should have essentially all the provisions of the Gas Sales and Purchase Agreement filed in D.T.E. 02-19. This was expected to enhance contract administration and facilitate Department review. BP Energy agreed and the final contract submitted in this proceeding reflects the attributes of the Gas Sales and Purchase Agreement which was ultimately approved in D.T.E. 02-19.

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AG-1-2 How much of the Company's Domestic gas supply will be provided by BP during the term of the contract? How much of the Company's Normal Winter sendout will be supplied by gas purchased under the BP agreement? Include all supporting calculations, workpapers and assumptions.

Response: Excluding peaking supplies, 100% of the Company's domestic gas supply will be provided by BP Energy during the term of the contract being reviewed in the proceeding. Based on the Company's most recent cost of gas adjustment ("CGA") filing, approximately 85% of the Company's normal winter sendout will be supplied by gas purchased under the BP Energy agreement.

Attached is a schedule which summarizes the sendout requirements for Berkshire by supplier. The column denoted as Firm Spot Gas would be supplied by BP Energy.¹ This column divided by the Company's total sendout was employed to derive the 85% figure noted previously.

¹The column denoted Spot includes volumes that the Company could purchase from BP Energy but has the option to purchase from other third party suppliers.

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AG-1-3 If any other Energy East Company has entered into gas supply contracts with BP, please provide the amount of each such company's domestic gas supply that will be provided by BP, and how much of each such company's normal winter sendout will be supplied by gas purchased from BP. Include all supporting calculations, workpapers and assumptions.

Response: Three other Energy East companies have entered into gas supply contracts with BP Energy as part of the alliance reflected in the Optimization Agreement and related Gas Sales and Purchase Agreement approved for Berkshire in D.T.E. 02-19. Berkshire is not aware of any other arrangements that the other Energy East companies might have with BP Energy nor is Berkshire aware of the percentage of gas supply provided by BP Energy in each of their portfolios.

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AG-1-4 Refer to Request for Proposal ("RFP") § D. Explain, in detail, the basis for the Company's decision not to purchase any of its domestic gas at a fixed price at the wellhead/production areas or in market areas? Include all analyses, documentation, communications supporting the Company's decision.

Response: The Request for Proposal ("RFP") issued for the replacement gas supplies requested that various pricing options be considered by bidders. As outlined in § D, the Company requested bids for at least three alternative pricing mechanisms: 1) Firm wellhead and/or market area gas sales; 2) fixed monthly price at the citygate; and 3) winter only service. All three of these options were described in further detail on pages 56 of the RFP. Thus, the Company was willing to consider purchasing domestic gas at a fixed price at the wellhead/production areas.

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AG-1-5 Provide all analyses, memoranda, presentations, and internal and external communications regarding the development of the Company's April 2002 RFP. Include copies of all draft versions of the RFP. Provide the names and titles of all individuals (employees, consultants and others) that were responsible for the development of the RFP.

Response: The RFP was developed by Karen Zink, Vice President of Marketing and Resource Planning for The Berkshire Gas Company and William Barschdorf, Supervisor of Gas Supply Planning for The Berkshire Gas Company. The RFP was then reviewed by the Company's counsel, James Avery, of the law firm Brown Rudnick, Berlack Israels LLP and by Denis Wickham, Senior Vice President of Transmission and Supply for Energy East Management Corporation.

Emails between the parties relating to the RFP are attached.

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AG-1-6 Provide the selection criteria used to evaluate the RFP responses. Discuss how these criteria were chosen. Provide the names and titles of all individuals (employees, consultants and others) that were responsible for the evaluation of the RFP responses.

Response: As outlined in the RFP on pages 79, the Company indicated that a variety of criteria would be considered in evaluating the RFP responses. Potential bidders were aware that, at a minimum, they would have to verify that:: 1) any service provided would be firm; 2) service would be for pipeline quality gas; 3) they maintained sufficient supply associated with the Tennessee Gas Pipeline system; 4) appropriate receipt points were reflected in bids; 5) nominations flexibility was adequate; 6) such supplier had appropriate experience; and, 7) supply guaranty and back-up availability concerns had been addressed. Once the proposals were received, they were, in fact, evaluated on both price and non-price factors including, among other things, the extent to which qualified suppliers could demonstrate the capability to perform the services required, meet performance standards, and achieve the objectives of the Company with particular emphasis on: 1) the availability to the bidder of reliable supply resources necessary to meet the Company's sales requirements; 2) the financial strength of the bidder; and 3) demonstrated experience in providing gas supply service.

The individuals that were responsible for the evaluation of the RFP responses were the same as those individuals that prepared the RFP, as outlined in the response to AG-1-5. Further, Berkshire requested that individuals at its sister companies, NYSEG and Connecticut Natural Gas/Southern Connecticut Gas Company provide a limited review of certain aspects of the bids.

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AG-1-7 Provide all the analyses of the RFP responses. Provide a full and detailed explanation of the evaluation process. Include all materials, communications internal and external (including communications with RFP respondents), supporting workpapers, calculations and assumptions.

Response: Attached please find the summary analyses of the RFP responses and any associated communications. The attachments are treated as confidential as they disclose bid prices.

****ATTACHMENT IS CONFIDENTIAL AND PROPRIETARY****

****PROTECTED TREATMENT****

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AG-1-8 How will the Company assure its customers that the indices used for gas pricing under the agreement with BP are not manipulated, inappropriately influenced or based on inaccurate information. See pages 41-55 from August 2002 FERC Staff Report, "Initial Report on Company-Specific Separate Proceedings and Generic Reevaluations; Published Natural Gas Price Data; and Enron Trading Strategies" filed in Docket No. PA02-2-000, Fact-Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices. The full document is available at the FERC website: <http://www.ferc.fed.us/electric/bulkpower/pa02-2/Initial-Report-PA02-2-000.pdf>.

Please discuss in detail all investigations the Company has undertaken to assure the accuracy of the index price related to savings under the alliance/optimization agreement approved in DTE 01-41 and 02-19.

Response: The Company's agreement with BP Energy provides for substantial flexibility in terms of the pricing options available to Berkshire. Specifically, Section 3.1 of the agreement enables Berkshire to select one of three pricing alternatives in a given month with respect to the commodity component of the charge. This flexibility will enable the Company to monitor regulatory and market developments to ensure that an appropriate and accurate pricing standard is employed. In addition, the Company notes that the specific indices within the agreement are generally consistent with the findings of the FERC staff report referenced above. First, the report notes the preference for the application of production area price data which correlates substantially with the Henry Hub price data that was found to be based upon a liquid market that did not appear subject to price manipulation. Indeed, the Company's decision to reject a proposal based upon market area pricing is fully consistent with the report's findings (see, p 71). Second, the use of Gas Daily production area pricing was specifically employed by FERC staff in developing its recommendation for a proposed California adjustment (id.). Finally, the option to employ a NYMEX trigger price enables the Company to rely upon the well-regulated NYMEX market (id. at 67-70).

The Company monitors developments with respect to natural gas pricing in coordination with its affiliates as well as its participation in industry groups. The Company expects to continue to implement appropriate oversight procedures in the context of the alliance approved in D.T.E. 02-19.

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AG-1-9 What assurances does the Company offer that the supply pricing under the BP contract will not be influenced by the Company's and BP's ability to benefit financially from related transactions under the alliance/optimization agreement approved by the Department in DTE 02-19. Would the Company agree to an independent audit of all related transactions?

Response: It is important to note that all the benefits of optimization and any gas supply savings will be returned 100% to the Company's sales customers. The Company will not benefit financially from related transactions under the alliance/optimization agreement approved by the Department in DTE 02-19, rather, by reducing gas price volatility it should help the Company retain and, potentially, add additional load to its system. The Company agrees to abide by the requirements of the Order in DTE 02-19.